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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 1104

UNITED STATES OF AMERICA, Plaintiff, v. **Reymundo Marcial MADRIGAL (D1)** **and** **Xavier Loren RIOS (D2)** Defendants.	Magistrate Case No.________ COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii)- Bringing in Illegal Alien Without Presentation

The undersigned complainant being duly sworn states:

On or about **April 10, 2008**, at the San Ysidro Port of Entry, within the Southern District of California, defendants **Reymundo Marcial MADRIGAL (D1)** and **Xavier Loren RIOS (D2)**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Sergio LUPERCIO-Aceves** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 11th DAY OF **APRIL, 2008**.

UNITED STATES MAGISTRATE JUDGE

PROBABLE CAUSE STATEMENT

The complainant states that **Sergio LUPERCIO-Aceves** is a citizen of a country other than the United States; that said alien has admitted he is deportable; that his testimony is material; that it is impracticable to secure his attendance at trial by subpoena; and that he is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On April 10, 2008, at approximately 0535 hours, **Reymundo Marcial MADRIGAL (D1)** made application for admission into the United States from Mexico at the San Ysidro, California Port of Entry. D1 was the driver of a white Chrysler Sebring and was accompanied by **Xavier Loren RIOS (D2)**. While conducting pre-primary roving operations, a Canine Enforcement Officer noticed his Narcotics/Human Detector dog alerted to the vehicle. Another CBP officer responded and initiated an inspection. D1 and D2 presented California identification cards and gave a negative Customs declaration. The CBP officer noticed D2 was attempting to conceal something on the passenger side floor. Upon further inspection, the CBP officer observed a black cloth covering an individual. The vehicle and its occupants were subsequently escorted to secondary for further inspection.

In secondary, CBP Officers discovered one male covered with a black fabric concealed with half his torso under the passenger side dashboard and his feet under the passenger seat covered by a black fabric. CBP Enforcement Officers assisted in removing the individual from the dashboard compartment and seat area. The individual was determined to be a citizen of Mexico without legal documents to enter the United States and is now identified as: **Sergio LUPERCIO-Aceves (Material Witness)**.

During a videotaped interview, D1 was advised of his Miranda rights. D1 acknowledged his rights and elected to answer questions without an attorney present. D1 admitted knowledge of the concealed alien within the dashboard and front passenger seat of the vehicle. D1 claimed he was related to Material Witness and was only providing the smuggling service as a favor.

During a videotaped interview, D2 was advised of his Miranda rights. D2 acknowledged his rights and elected to answer questions without an attorney present. D2 admitted knowledge of the concealed alien within the dashboard and front passenger seat of the vehicle. D2 admitted helping conceal Materiel Witness between his legs with a black fabric. D2 denied any financial compensation in helping smuggle Material Witness into the United States.

On a separate videotaped interview, Material Witness declared he is a citizen of Mexico without legal rights or entitlements to enter the United States. Material Witness stated he was going to pay a smuggling fee of $3,000 U.S. dollars upon his arrival to Los Angeles, California. Material Witness stated he did not have any family relation or connection to D1 or D2. MW stated he was unable to exit the vehicle without assistance.